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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

ELSA ROXANA MARTINEZ-GARCIA,

Defendant and Appellant.

H035512

(Santa Clara County

Super. Ct. No. CC951319)

Defendant Elsa Roxana Martinez-Garcia appeals from a judgment entered after a jury found her guilty of sale of methamphetamine (Health & Saf. Code, § 11379, subd. (a)). The trial court suspended imposition of sentence and placed defendant on probation for three years on condition, among other things, that she serve six months in county jail. We affirm.

I. Statement of Facts

At approximately 5:07 p.m. on August 4, 2009, Officers Anthony Vizzusi and Stephen Fries were driving in a marked patrol car near the intersection of Le Compte Place and Mistflower in San Jose. Officer Vizzusi saw a bicyclist, later identified as Isidro Rodriguez Cuevas, heading east on Le Compte. Cuevas rode up to a silver Mercedes SUV and handed money to defendant. Defendant then handed Cuevas a black

plastic bag. Believing that they had observed a drug transaction, the officers detained Cuevas and defendant.

Officer Fries observed that Cuevas was exhibiting symptoms of being under the influence of a controlled substance and arrested him. While searching Cuevas, Officer Fries found a glass pipe, which was used to smoke methamphetamine, in his front pocket. The black plastic bag, which was under the bicycle, contained .21 grams of methamphetamine. Meanwhile, Officer Vizzusi detained defendant. After arresting defendant, Officer Vizzusi conducted a search of her vehicle and found over \$500 in the glove compartment and behind the driver's seat, and \$21 on the driver's seat. When Officer Vizzusi interviewed defendant, she told him that she was asking Cuevas to help her put air in her tires. Officer Vizzusi testified that the street value of .20 grams of methamphetamine at that time was about \$20.

Fredy Martinez, Jr., defendant's brother, testified for the defense. He owned the Mercedes and lent it to defendant on August 3, 2009. He had about \$500 to \$600 in the glove compartment in the Mercedes because he intended to pay his rent and other bills. He did not know why the officers found money in other locations in the vehicle. He also admitted that he had been convicted in 2008 of robbery.

Defendant testified that she borrowed Martinez's car on August 3, 2009, in order to run various errands. She was unaware that there was money in the car. When she was parked on Le Compte at about 3:05 p.m. on August 4, Cuevas approached on his bicycle and asked, "Do you need anything?" She replied, "No." She denied taking any money from Cuevas. She also denied handing him a plastic bag or drugs. According to defendant, a black bag fell off the bicycle when the officers picked the bicycle up. She never told Officer Vizzusi that she asked Cuevas for help with her tires.

Officer Fries testified on rebuttal. He verified that the time of the stop was 5:07 p.m. based on the CAD records from the police department. He also testified that

“on the street” “‘do you need anything’ would mean do you want to buy something . . . referring to narcotics.”

II. Discussion

Appointed appellate counsel has filed an opening brief which states the case and the facts but raises no issues. Defendant was notified of her right to submit written argument on her own behalf but has failed to avail herself of that opportunity. Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there are no arguable issues on appeal.

III. Disposition

The judgment is affirmed.

Mihara, J.

WE CONCUR:

Bamattre-Manoukian, Acting P. J.

Duffy, J.